

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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YAYA JALLOW,	:	
	:	20 Civ. 6260 (LGS)
Plaintiff,	:	
	:	
-against-	:	<u>ORDER</u>
	:	
CITY OF NEW YORK,	:	
	:	
Defendant.	:	
-----X	:	

LORNA G. SCHOFIELD, District Judge:

WHEREAS, the Order, dated May 13, 2021 (Dkt. No. 55), set a briefing schedule for Defendant's motion for judgment on the pleadings.

WHEREAS, Defendant's motion for judgment on the pleadings was filed on June 14, 2021 (Dkt. No 56). Plaintiff's opposition is due on July 29, 2021 (Dkt. No. 55).

WHEREAS, Defendant has filed a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56 (Dkt. No. 59). That motion claims that no dispute of fact exists as to Defendant's liability, in view of the exhibits attached to Plaintiff's Fourth Amended Complaint.

WHEREAS, this motion is premature, as a summary judgment motion in this case should not be filed until after discovery has been completed. As stated in the Order, dated December 1, 2020 (Dkt. No. 20), a motion for summary judgment is appropriate when the parties do not disagree about the important facts in the case. It will not be clear what the important facts are and whether the parties disagree about them until the parties have completed discovery. Discovery is the process when the parties exchange records about the case and take testimony in a deposition. Discovery has not been completed in this case, and a summary judgment must await its completion and then is proper only if the parties do not agree about the important facts of what happened.

WHEREAS, as stated in the Order, dated March 22, 2021 (Dkt. No. 46), Defendant has

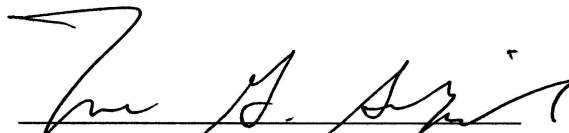
filed a motion for judgment on the pleadings. This requires the Court to evaluate whether Plaintiff's Fourth Amended Complaint (Dkt. No. 36) alleges facts sufficient for the Court to find that his Constitutional rights have been violated. This is a legal question -- assuming the facts claimed in the Fourth Amended Complaint are true, is what occurred a Constitutional violation? Plaintiff may, but is not required to, respond to the motion because the Court understands that Plaintiff is not a lawyer and is representing himself in this action. The Court will evaluate the legal sufficiency of Defendants' motion whether or not Plaintiff responds. Accordingly, it is hereby

**ORDERED** that Plaintiff's motion for summary judgment is **denied** without prejudice to renewal following the completion of the discovery process in this case. Plaintiff may, but is not required to respond to Defendant's motion for judgment on the pleadings. If Plaintiff chooses to do so, he must file the response by July 29, 2021.

If Plaintiff chooses to file a response, he is advised to contact the New York Legal Assistance Group for assistance in preparing his response by calling 212-613-5000 or by visiting <https://nylag.org/contact-us/>.

The Clerk of Court is respectfully directed to close the docket entry at number 59 and mail a copy of this Order to pro se Plaintiff.

Dated: July 15, 2021  
New York, New York



**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**